

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FRANCESCO VITALE,  
Plaintiff,

v.

STATE OF CALIFORNIA FRANCHISE  
TAX BOARD, et al.,  
Defendants.

Case No. 23-cv-06039-RFL

**ORDER TO SHOW CAUSE WHY  
CASE SHOULD NOT BE DISMISSED  
FOR FAILURE TO PROSECUTE**

Re: Dkt. Nos. 5, 7

On November 21, 2023, pro se Plaintiff Francesco Vitale filed a complaint against Defendants U.S. Deputy Assistant Attorney General David Hubbert and the California Franchise Tax Board. (Dkt. No. 1.) On February 12, 2024, the United States filed a motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted. (Dkt. No. 5.) On February 23, 2024, the California Franchise Tax Board filed a motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted. (Dkt. No. 7.) Vitale's opposition to the motion to dismiss filed by the United States was due on February 26, 2024. Vitale's opposition to the motion to dismiss filed by the California Franchise Tax Board was due on March 8, 2024. To date, Vitale has failed to file any opposition to the pending motions to dismiss.


Accordingly, Vitale is **ORDERED** to show cause, in writing, by **April 5, 2024**, as to why his complaint should not be dismissed for failure to prosecute. In addition, if Vitale wishes to pursue his claims against Defendants, he is further **ORDERED** to file responses in opposition to Defendants' motions to dismiss by **April 5, 2024**. If Vitale files opposition briefs by that date,

Defendants' deadline to file any reply briefs will be **April 19, 2024**. Vitale's failure to timely comply with this order will result in the dismissal of this case. *See* Fed. R. Civ. P. 41(b).

The hearing on Defendants' motions to dismiss, currently set for April 2, 2024, is hereby **VACATED**. In other words, the hearing is canceled until further notice.

**IT IS SO ORDERED.**

Dated: March 20, 2024

  
RITA F. LIN  
United States District Judge